CLERK US DISTRICT COURT-NORTHERN DIST. OF TX FILED

IN THE UNITED STATES DISTRICT COURT 2010 JUL - 1 PM 4: 03 FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION DEPUTY CLERK

JUSTIN DEMON DOTIE, PRO SE, also known as JUSTIN HILL, also known as JUSTIN THOMAS, TDCJ-CID No. 1071732, Previous TDCJ-CID No. 656977,		
Plaintiff,	§ §	
v.	§ § &	2:10-CV-0128
WILLIAM H. JONES, III, Major,	\$ \$ \$	
Defendant.	§ §	

ORDER OF DISMISSAL

Plaintiff JUSTIN DEMON DOTIE, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendant and has been granted permission to proceed *in forma pauperis*.

On June 16, 2010, a Report and Recommendation was issued by the United States Magistrate Judge recommending dismissal for failure to state a claim on which relief can be granted.

On June 28, 2010, plaintiff filed his Objections, presenting additional facts and argument to support a claim of retaliation against defendant JONES. A plausible entitlement to relief exists when the allegations in the complaint cross the thresholds separating the "conclusory" from the "factual" and the "factually neutral" from the "factually suggestive." *Bell Atlantic*

Corp. v. Twombly, 550 U.S. 544, 557 n.5, 127 S.Ct. 1955, 1966 n.5, 167 L.Ed.2d 929 (2007). Moreover, causation requires the plaintiff show that but for the retaliatory motive, the adverse act would not have occurred. *McDonald*, 132 F.3d at 231. Finally, the retaliatory adverse act must be more than inconsequential or *de minimis*, that is, it must be capable of deterring a person of ordinary firmness from further exercising his constitutional rights. *Morris v. Powell*, 449 F.3d 682 (5th Cir. 2006). Considering plaintiff's new allegations and argument, plaintiff has still failed to state a claim of retaliation against defendant JONES for plaintiff's use of the grievance system.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the Objections filed by the plaintiff.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by JUSTIN DEMON DOTIE is DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box

13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

MARY LOU ROBINSON United States District Judge